

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

COLORADO SYMPHONY
ASSOCIATION,

Petitioner,

v.

NATIONAL LABOR RELATIONS
BOARD,

Respondent.

Case No. 18-1189
18-1194

**STATEMENT OF ISSUES
TO BE RAISED**

Petitioner Colorado Symphony Association (“Petitioner” or “CSA”) hereby presents the following statement of issues which Colorado Symphony Association intends to raise in connection with this Court’s review of the instant matter:

1. Whether the National Labor Relations Board (“NLRB”) erred by finding (a) CSA refused to bargain collectively with the American Federation of Musicians of the United States and Canada, AFL–CIO/CLC (“AFM”) by failing and refusing to furnish it with requested information that is relevant and necessary to the AFM’s performance of its functions as the collective-bargaining representative of the Respondent’s unit employees; (b) CSA unilaterally changed the terms and conditions of employment of its unit employees by implementing its initial contract proposal for a successor to the Symphony, Opera or Ballet Orchestra Integrated Media Agreement (IMA) without the parties having reached a

lawful impasse; (c) CSA unilaterally changed the terms and conditions of employment of its unit employees for work on national media projects without first notifying the AFM and giving it an opportunity to bargain; (d) CSA bypassed the AFM and dealt directly with the Respondent's musicians with regard to wages, hours, and other terms and conditions of employment for the production of national electronic and recorded media; (e) CSA unilaterally changed national media terms and conditions of employment of its unit employees in the Respondent's collective-bargaining agreement with the Denver Musicians Association, Local 20-623, without first notifying the AFM and giving it an opportunity to bargain; (f) CSA withdrew recognition from the AFM and failed and refused to bargain with the AFM as the exclusive collective-bargaining representative of unit employees regarding wages, hours, and other terms and conditions of employment for the production of national electronic and recorded media; and (g) CSA in a like or related manner interfered with, restrained, or coerced employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Whether the NLRB erred by finding AFM is the lawful 9(a) representative of musicians.

3. Whether the NLRB's findings of facts are supported by substantial evidence.

4. Whether the NLRB's conclusions of law departs from established precedent without reasoned justification.

Respectfully submitted this 17TH day of August, 2018.

SHERMAN & HOWARD L.L.C.

s/ Patrick R. Scully

Patrick R. Scully

Jonathon M. Watson

633 Seventeenth Street, Suite 3000

Denver, CO 80202

Telephone: (303) 297-2900

Facsimile: (303) 298-0940

Email: pscully@shermanhoward.com

Email: jwatson@shermanhoward.com

*Attorneys for Petitioner Colorado Symphony
Association*

CERTIFICATE OF SERVICE (CM/ECF)

I hereby certify that on this 17th day of August, 2018, I electronically filed the foregoing **STATEMENT OF ISSUES TO BE RAISED** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Linda Dreeben, Deputy Associate General Counsel
Elizabeth Heaney, Attorney
Greg Lauro, Attorney
National Labor Relations Board
1015 Half Street SE, Suite 8100
Washington, DC 20570
Appellatecourt@nlrb.gov; Linda.dreeben@nlrb.gov
Elizabeth.heaney@nlrb.gov
Greg.lauro@nlrb.gov

Abigail V. Carter
Bredhoff & Kaiser, P.L.L.C.
805 15th Street, N.W., Suite 100
Washington, D.C. 20005
ACarter@bredhoff.com

I further certify that on this 17th day of August, 2018, I electronically served a copy of the above **STATEMENT OF ISSUES TO BE RAISED** upon the following:

Paula S. Sawyer, Regional Director *[via email]*
Michelle Devitt, Esq. *[via email]*
Counsel for General Counsel
National Labor Relations Board, Region 27
Byron Rogers Federal Office Building
1961 Stout Street, Suite 13-103
Denver, CO 80294
Paula.Sawyer@nlrb.gov
Michelle.Devitt@nlrb.gov

*s/ Lynn Zola Howell*_____